



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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July 29, 2010

Dr. Susan Hedman, Regional Administrator  
Office of the Regional Administrator, R-19J  
U. S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3507

Re: Tailoring Rule Implementation in Illinois

Dear Dr. Hedman:

This letter is in response to the United States Environmental Protection Agency's (USEPA) request for information regarding Illinois' planned implementation of the *Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule (Tailoring Rule)*.

For the federal Prevention of Significant Deterioration (PSD) regulations, Illinois is a delegated state and therefore can implement the Tailoring Rule's new requirements and thresholds consistent with the provisions and timing outlined by USEPA in the Tailoring Rule and other related documents.

However, there are impacts from the Tailoring Rule in regards to construction and operating permit requirements in Illinois. A primary issue concerns the current requirement that smaller sources will require a construction and operating permit when greenhouse gases (GHGs) become regulated pollutants, and inherently, specified air contaminants under Illinois regulations. Under current Illinois regulations, sources in Illinois that emit GHGs will be required to obtain a construction and operating permit unless specifically exempted. These permitting requirements would result in many smaller sources being required to get permits solely because of their GHG emissions. Since the permitting of these smaller sources of GHG emissions would be unduly burdensome, it is necessary that Illinois' permit exemption provisions be expanded so as to not require permitting of smaller GHG sources. Consequently, Illinois EPA intends to revise its regulations so as to expand the permit exemption provisions to cover smaller sources of GHGs.

For Illinois' Title V program, Illinois must revise both its statutes and regulations to implement the Tailoring Rule. GHGs are considered regulated air pollutants under Illinois law and the primary issue is not whether major sources are required to obtain Title V permits for GHGs under the Tailoring Rule, but rather: 1) the large number of sources that would need permits without a revision to the existing major source thresholds; and 2) the unintended large fee amounts that would apply under the existing Title V fee structure which is based on criteria air pollutants.

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To address these issues, Illinois EPA intends to revise the Illinois Environmental Protection Act (IL Act) to include the larger major source thresholds for GHGs, which are emitted in much greater quantity than criteria pollutants, and to add a new fee schedule specifically for GHGs. Since the existing fee schedule did not contemplate the inclusion of GHGs in determining the fee amounts, and since the fee amounts would be extraordinarily high for GHGs, the Illinois EPA must revise its fee structure to accommodate the inclusion of GHGs in a reasonable manner. Furthermore, the Illinois EPA will likely need to clean up some existing legislation that could be interpreted in a manner to restrict GHG regulation. We intend to propose these legislative fixes in concert with the other changes.


In regards to timing, Illinois is preparing to move forward with a proposal to the Illinois Pollution Control Board (IPCB) to expand Illinois' permit exemptions to ensure permit requirements are not applied to smaller sources of GHGs. This regulatory revision is intertwined with other actions Illinois is taking to address the Tailoring Rule requirements and may be dependent on the timing of planned legislative changes.

For the necessary Title V related legislative revisions indicated above, Illinois is constrained by the Illinois Legislature's schedule. If the legislative revisions are introduced in the fall veto session, it is feasible that the changes could be signed into law in the first few months of 2011. If the legislative revisions are not able to be addressed by the Illinois Legislature until the spring session of 2011, then such changes are likely not to be signed into law until late spring or early summer of 2011. The regulatory revisions would follow shortly thereafter and Illinois EPA can seek fast-track and expedited rulemakings from the IPCB.

Please note that Illinois also needs to take several other actions related to the Tailoring Rule, including fee and resource issues identified during a fee and resource assessment recently performed. These actions include an increase in the existing fees for criteria pollutants and ensuring that Illinois EPA receives additional fees necessary to cover costs associated with the Tailoring Rule. The cumulative efforts of Illinois EPA to address the Tailoring Rule is placing an enormous resource drain on our already stressed resources and involves the pulling of personnel from their normal day-to-day activities to assist in planning and implementation of the Tailoring Rule. Please bear with us as we move forward to address these issues.

In summary, both legislative and regulatory fixes are needed for Illinois EPA to implement the Tailoring Rule. The timing of getting these fixes in place ranges from as early as February 2011 for legislation to a later date dependent on several factors. In any case, Illinois is taking the necessary action to allow implementation of the Tailoring Rule in a timely manner.

Very truly yours,



Douglas P. Scott  
Director, Illinois EPA